



US Army Corps
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US Army Corps of Engineers

HTRW CX Regulatory Fact Sheet FY 03 - 03

Title: Hazardous Materials; Security Requirements for Offerors and Transporters of Hazardous Materials

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Action Type: Final rule

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Executive Summary: The Research and Special Programs Administration (RSPA) of the Department of Transportation (DOT) has issued this final rule to enhance the security of hazardous materials (hazmat) transported in commerce. This rule requires certain shippers and carriers to develop and implement security plans. In addition, all shippers and carriers of hazardous materials must assure that their employee training includes a security component.

Impact: This rule requires additional training for all hazmat employees. In addition, certain shippers and carriers will be required to develop security plans.

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Full Text Location: Can be found at this [location](#)

Background:

As a result of the terrorist attacks of September 11, 2001, and subsequent threats related to biological and other hazardous materials, the RSPA has undertaken a broad review of government and industry hazardous materials transportation safety and security programs. In the wrong hands, hazardous materials can pose a significant security threat. Hazardous materials in transportation are particularly vulnerable to sabotage or misuse. Security of hazardous materials in the transportation environment poses unique challenges as compared to security at fixed facilities. Hazardous materials are frequently transported in substantial quantities. Such materials are already mobile and are frequently transported in proximity to large population centers. Further, hazardous materials in transportation are often clearly identified to ensure safe and appropriate handling during transportation and to facilitate effective emergency response in the event of an accidental release. While the HMR provide for a high degree of safety with respect to avoiding and mitigating unintentional releases of hazardous materials during transportation, the HMR do not specifically address security threats. On May 2, 2002 RSPA issued a proposed rulemaking addressing security requirements. Today, RSPA issued final rule on this matter.

Key Elements of the Proposed Rule:

The final rule provides essentially two new requirements: security training requirements and the requirement for Security Plans.

Who must prepare a security plan? Each person who offers for transportation or transports one or more of the following hazardous materials (hazmat) must develop and adhere to a security plan for hazardous materials:

- (1) A highway route-controlled quantity of a Class 7 (radioactive) material in a motor vehicle, rail car, or freight container;
- (2) More than 25 kg (55 pounds) of a Division 1.1, 1.2, or 1.3 (explosive) material in a motor vehicle, rail car, or freight container;
- (3) More than one L (1.06 qt) per package of a material poisonous by inhalation that meets the criteria for Hazard Zone A;
- (4) A shipment of a quantity of hazardous materials in a bulk packaging having a capacity equal to or greater than 13,248 L (3,500 gallons) for liquids or gases or more than 13.24 cubic meters (468 cubic feet) for solids;
- (5) A shipment in other than a bulk packaging of 2,268 kg (5,000 pounds) gross weight or more of one class of hazardous materials for which placarding of a vehicle, rail car, or freight container is required;
- (6) A select agent or toxin regulated by the Centers for Disease Control and Prevention under 42 CFR 73; or
- (7) A quantity of hazardous material that requires placarding under the provisions of subpart F Part 172.

What are the basic components of a Security Plan? The security plan must include an assessment of possible transportation security risks for shipments of the hazardous materials and appropriate measures to address the risks. Under 49 CFR 172.802, the components of a security plan must include:

- (1) Personnel security - measures to confirm information provided by job applicants hired for positions that involve access to and handling of the hazardous materials covered by the security plan.
- (2) Unauthorized access - measures to address the assessed risk that unauthorized persons may gain access to the hazmat covered by the security plan or transport conveyances being prepared for transportation of the hazmat covered by the security plan.
- (3) En route security - measures to address the assessed security risks of shipments of hazmat covered by the security plan en route from origin to destination, including shipments stored incidental to movement.

The security plan must be in writing and must be retained for as long as it remains in effect. Copies of the security plan, or portions thereof, must be available to the employees who are responsible for implementing it, consistent with personnel security clearance or background investigation restrictions and a demonstrated need to know. The security plan must be revised and updated as necessary to reflect changing circumstances. When the security plan is updated or revised, all copies of the plan must be maintained as of the date of the most recent revision.

What is the deadline for preparing a Security Plan? The plan must be prepared by September 25, 2003.

Who needs the Training? There are two separate requirements for security training:

(1) If you are required to have a security plan, then you are required to be trained on the specifics of that plan (see In-depth Security Training requirements below).

(2) If you are a hazmat employee as defined in 49 CFR 171.8 and are trained under 49 CFR 172.704, you must receive training that provides an awareness of the security issues associated with hazardous materials transportation and possible methods to enhance transportation security (see Security Awareness Training requirements below).

What is the In-depth Security Training requirement? By December 22, 2003 each hazmat employee of a person required to have a security plan must be trained concerning the security plan and its implementation. Security training must include company security objectives, specific security procedures, employee responsibilities, actions to take in the event of a security breach, and the organization security structure.

What is the Security Awareness Training requirement? No later than the date of the first scheduled recurrent training after March 25, 2003, and in no case later than March 24, 2006, each hazmat employee must receive training that provides an awareness security risks associated with hazardous materials transportation and methods designed to enhance transportation security. This training must also include a component covering how to recognize and respond to possible security threats. After March 25, 2003, new hazmat employees must receive the security awareness training required by this paragraph within 90 days after employment.

Applicability

This final rule is applicable to all persons considered hazmat employees. This term includes the federal government as well as contractors. Hazmat employees are those employees who during the course of employment load, unload, or handle hazmat; those that prepare hazmat for transportation (prepare shipping papers, label, mark, placard, package); those responsible for the safe transportation of hazmat; or those operating a vehicle to transport hazmat. In addition, DOD requires full compliance with DOT requirements as per DOD Instruction 4500.9-R. Thus USACE, as well as other DOD entities, should ensure all employees meeting the definition of hazmat employees are trained in accordance with the requirements of 49 CFR 172 Subpart H and that security plans are prepared for all shipments requiring plans as specified above and in newly promulgated 49 CFR 172.800.

Persons arranging for the shipment of hazmat through contractors and all hazmat employees should read the Federal Register for the specific requirements of this rule.